

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0033P

Gross and Adjusted Gross Income Tax
Calendar Years 1995, 1996, 1997, and 1998

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Delaware and manufactures industrial gases.

At audit it was determined that the taxpayer failed to include in gross receipts its Indiana destination sales, failed to add back state income and property taxes, and include the sales of Indiana assets.

Taxpayer protests the penalty and states it did everything a reasonable person would do when filing its tax returns. Taxpayer states it immediately sent payment, based on a Preliminary Audit Summary, in good faith even though the audit was not finalized. Taxpayer further states it had many internal changes including a hundred percent turnover in manpower in the tax department.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to report its gross proceeds from the sale of Indiana assets and Indiana destination sales. Taxpayer failed to addback State income and property taxes, failed to file amended returns to report changes to federal taxable income resulting from RAR adjustments for 1995 and 1996 as required by 45 IAC 3.1-1-94, and made other errors. Taxpayer has been audited previously.

Taxpayer, in a letter dated December 8, 2000 protested penalties assessed due to its good faith with the Department and circumstances beyond its control.

Taxpayer, however, failed to report RAR adjustments as required under 45 IAC 3.1-1-94 and failed to properly report its income and addback taxes.

Taxpayer has not provided reasonable cause for its failure to report the RAR adjustments, its failure to include all of its gross income, its failure to addback taxes. In addition the audit indicated other areas of noncompliance. The taxpayer failed to remit 27%, 34%, 55%, and 55% in 1995, 1996, 1997, and 1998 respectively. The Department finds that a negligence penalty is proper.

FINDING

Taxpayer's protest is denied.